The Court of Appeals, in affirming the judgment of the Appellate Division, expressly repudiates the theory of subrogation, and bases the right of action on the breach of the legal duty to support. For a discussion of the principles involved see 24 HARV. L. REV. 306.

INJUNCTIONS — ACTS RESTRAINED — BILL OF REVIEW IN ANOTHER STATE. — The wife of a divorcee sued in New York to enjoin the first wife from prosecuting an action in Illinois to annul the decree of divorce granted by the Illinois court. The Illinois decree had previously been adjudged valid by the New York courts in an action by the first wife against the divorcee. *Held*, that the injunction should not be granted. *Guggenheim* v. *Wahl*, 203 N. Y. 390, 96 N. E. 726.

It is clearly settled that a court of equity can enjoin parties within its jurisdiction from proceeding in an action in a foreign state when it would be inequitable to compel the complainant to defend in that state. *Gordon* v. *Munn*, 81 Kan. 537, 106 Pac. 286; *Miller* v. *Miller*, 66 N. J. Eq. 436, 58 Atl. 188. In general, the proceeding to restrain which an injunction is granted involves questions which are in litigation or could properly be litigated in the jurisdiction in which the injunction is granted. *Von Bernuth* v. *Von Bernuth*, 76 N. J. Eq. 177, 73 Atl. 1049; *Kempson* v. *Kempson*, 58 N. J. Eq. 94, 43 Atl. 97. In the principal case, however, the only forum in which the defendant can bring a bill of review is in Illinois. *Mathias* v. *Mathias*, 202 Ill. 125, 66 N. E. 1042. This seems to the court to be conclusive. It should at least, it is submitted, be of very great weight, on the ground of comity. *Bigelow* v. *Old Dominion Copper Mining, etc. Co.*, 74 N. J. Eq. 457, 71 Atl. 153. See *Harris* v. *Pullman*, 84 Ill. 20, 28; *Peck* v. *Jenness*, 48 U. S. 612, 624–625. As it is not shown that the complainant cannot get full and adequate relief in Illinois, the injunction is properly refused. Nor is the holding inconsistent with the doctrine of *res judicata*, for the complainant was not a party to the previous suit in New York.

INJUNCTIONS — ACTS RESTRAINED — PRIVATE NUISANCE ENJOINED THOUGH INJUNCTION CAUSES EXCESSIVE HARDSHIP. — The defendant, a large cement manufacturing company, was enjoined from continuing operations because a neighboring fruit-grower showed that the dust, unavoidably liberated from its furnaces, was a nuisance to him. On appeal, the defendant prayed a stay of the injunction pending the appeal and showed that the shutting down of its plant, even temporarily, would cause tremendous losses to it. *Held*, that the defendant is not entitled to the stay. *Hulbert* v. *California Portland Cement Co.*, 118 Pac. 928 (Cal.).

This decision accords with the well-established rule that a court of equity will interfere to prevent "private eminent domain." The court refuses to give any weight to the so-called "balance of hardship" doctrine that is finding favor with a growing minority of the American courts and is rapidly infringing upon the older rule. For a discussion of this doctrine see 22 HARV. L. REV. 596.

LEGACIES AND DEVISES — PAYMENT — INTEREST ON LEGACY PAYABLE OUT OF REVERSIONARY PROPERTY. — A testator bequeathed £10,000 to his sister to be paid out of the estate inherited by him from his mother. This consisted of a reversion following a life interest in his father. The testator died seven years before his father. *Held*, that the sister's legacy bears interest from the expiration of one year after the death of the testator. *Re Walford*, 132 L. T. J. 58 (Eng., C. A., Nov. 1, 1911).

The general rule is that when no particular time is set for the payment of legacies, they are payable with interest from the expiration of one year after the death of the testator. See *Lord* v. *Lord*, L. R. 2 Ch. 782, 789. The appli-

cation of this rule will not be defeated by the fact that the estate could not be got in within the year, or that the court had ordered the payment to be delayed beyond that time. *Martin* v. *Martin*, 6 Watts (Pa.) 67; *Bonham* v. *Bonham*, 38 N. J. Eq. 419. It will apply although the estate consists largely of reversionary interests. *In re Blachford*, 27 Ch. D. 676. An intent on the part of the testator that it should not apply has been inferred where the payment of interest on preferred legacies from that date would prevent the payment of other legacies. *Wheeler* v. *Ruthven*, 74 N. Y. 428. But this case must be limited to its special facts. *Matter of Rutherfurd*, 196 N. Y. 311, 89 N. E. 820. Very clear evidence of a contrary intent is necessary to prevent the operation of the general rule. See 2 ILL. L. REV. 440. It has been held, however, against the principal case, that where a legacy is payable out of a reversion it carries interest only from the time that the reversion falls in. *Earle* v. *Bellingham*, 24 Beav. 448; *Gibbon* v. *Chaytor*, [1907] 1 I. R. 65. See 2 JARMAN, WILLS, 6 ed., 1108.

LIBEL AND SLANDER — PRIVILEGED COMMUNICATIONS — ACTION AGAINST WITNESS AND PARTY INDUCING HIM TO TESTIFY FALSELY. — A wife sued her husband for a divorce and upon a claim for money. The husband procured a witness to testify falsely that the wife had committed adultery with her attorney, whereby the divorce suit and money claim were lost. The attorney, who had been assigned a part interest in the money claim, sued the witness and the husband in an action of tort. *Held*, that he has a cause of action against neither. *Schaub* v. *O'Ferrall*, 81 Atl. 789 (Md.).

The witness is protected from actions of slander by his absolute immunity while testifying. *Seaman* v. *Netherclift*, 2 C. P. D. 53; *Hunckel* v. *Voneiff*, 69 Md. 179, 14 Atl. 500. The same policy promoting free testimony bars all actions against him for perjury. *Damport* v. *Sympson*, Cro. Eliz. 520; *Dunlap* v. *Glidden*, 31 Me. 435. But his co-defendant has intentionally harmed the plaintiff without excuse and has not the protection of the witness stand. One inducing another to do harm is not relieved by the fact that the other has a defense. *Hoosac Tunnel Dock & Elevator Co.* v. *O'Brien*, 137 Mass. 424; *Emery* v. *Hapgood*, 7 Gray (Mass.) 55. See *The Bernina*, 12 P. D. 58, 83. Where the witness slanders a stranger to the suit, the instigator is liable. *Rice* v. *Coolidge*, 121 Mass. 393. But to limit litigation, a party to the suit cannot sue for subornation of perjury where the false testimony was made in connection with an issue raised therein. *Smith* v. *Lewis*, 3 Johns. (N. Y.) 157; *Taylor* v. *Bidwell*, 65 Cal. 489, 4 Pac. 491. An attorney is neither party nor privy. But the attorney here was partial assignee. Where statutes allow the real party in interest to sue, he may join with the assignor. *Fireman's Fund Ins. Co.* v. *Oregon R. & Navigation Co.*, 45 Or. 53, 76 Pac. 1075; *Earnest* v. *Barrett*, 6 Ind. App. 371, 33 N. E. 635. But *cf. Otis* v. *Adams*, 56 N. J. L. 38, 27 Atl. 1092. Without such statute, he is in substance a co-owner of the claim and should be concluded by the judgment against the assignor. His proper remedy is a bill in equity to set it aside. See 1 BLACK, JUDGMENTS, 2 ed., § 317. But see 6 POMEROY, EQUITY JURISPRUDENCE, § 656.

MANDAMUS — PROCEEDINGS — PREMATURE COMMENCEMENT. — The defendant railroads were ordered by a commission to make track connections within ninety days. They manifested a determination to disobey the order. Three days later application was made for a writ of *mandamus*. *Held*, that the action is not premature. *State ex rel. Dawson* v. *Chicago, B. & Q. R. Co.*, 118 Pac. 872 (Kan.).

The general rule is that *mandamus* will issue only upon actual default in a duty owed by the defendant at the time of the application for the writ. *State ex rel. Board of Education* v. *Hunter*, 111 Wis. 582, 87 N. W. 485. It is said